

and at least one lift bar swingably coupling said swing bar to one of said first and second pair of booms,

whereby expansion and contraction of the actuator causes the swing bar to swing upon the base, displacing the at least one lift bar, thereby causing the booms to pivot upon the base, raising and lowering the lift. –

#### REMARKS

Reexamination and reconsideration of the application, as amended, are respectfully requested. In support whereof, applicant by his undersigned counsel states as follows:

The examiner has cited Wilcox, U.S. patent number 5,275,505, as a reference under 35 U.S.C. § 102(b) anticipating the present invention as claimed in claims 1-5. The applicant respectfully disagrees. Claims in the present application distinguish from Wilcox '505 in two respects.

First, concerning claim 1, and claims 2-7 which depend from 1, the examiner will note that *both ends of the actuator are pivotally coupled to ends of the booms*. One end of the actuator is coupled to one pair of booms by a pivoting connector that is an extension of the rear booms beyond their pivot point (claim 1, lines 9-11, supported by specification page 8, lines 18-21). The other end of the actuator is coupled to the other pair of booms by a pivoting load translation means (claim 1, lines 12-15).

Wilcox '505 teaches an actuator that is pivotally coupled at only *one* end to a pair of booms (32 generally). The other end of the '505 actuator is pivotally coupled to a bar (12 generally) that is affixed to the base frame of the lift. Wilcox does not teach coupling each end of the actuator to a pair of booms and therefore does not teach all the elements of the invention as claimed in claims 1-7.

A prior art reference anticipates a claim only if the reference discloses, either expressly or inherently, every limitation of the claim...."[A]bsence from the reference of any claimed element negates anticipation." *Row v. Dror*, 42 USPQ2d 1550, 1553 (Fed. Cir. 1997) (quoting *Kloster Speedsteel AB v. Crucible, Inc.*, 230 USPQ 81, 84 (Fed. Cir. 1986)).

Accordingly, Wilcox does not anticipate the present invention as claimed in claims 1-7 because an element set forth in the claims in question is absent in Wilcox.

The second respect in which claims in the present invention distinguish from Wilcox '505 is the *actual load translation means in the preferred embodiment*. As clarified in newly added claim 9, the load translation means in the preferred embodiment comprises a swing bar swingably coupled to the base and swingably coupled to one of the pairs of booms by at least one lift bar (the preferred embodiment uses two lift bars). Wilcox does not employ such a load translation means and accordingly cannot be a 35 U.S.C. §102 reference against the present invention.

The examiner has also cited Wilcox '505 as a reference rendering the present invention unpatentable as claimed in claims 6 and 7 for obviousness under 35 U.S.C. § 103(a) in view of U.S. patent number 5,888,019 to Qualstad. The applicant respectfully disagrees.

Neither Wilcox nor Qualstad, alone or in combination, teaches a watercraft lift with adjustable booms that practices load balancing by coupling the actuator at both ends to the booms.

In determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the references before him to make the proposed substitution, combination or other modification. *In re Lindner*, 173 USPQ 560, 562 (C.C.P.A. 1972).

The reference teachings in this case are not sufficient to lead one of ordinary skill in the art to couple the actuator at both ends to the booms, as set forth in claims 6 and 7. Accordingly, the references do not establish a *prima facie* case of obviousness of the claims in question under Section 103.

In view of the foregoing, it is submitted that the claims are in condition for allowance. Reconsideration of the rejections is requested. Allowance of the claims as amended at an early date is solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Anthony Claiborne", written in a cursive style.

Anthony Claiborne  
U.S.P.T.O. Reg. No. 39,636  
Claiborne Patent Law Services  
849 136<sup>th</sup> Ave. N.E.  
Bellevue, Washington 98005  
Telephone Number (425) 562-6290